

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

STELLAR J CORPORATION, a  
Texas corporation,

09-CV-353-JE

Plaintiff,

ORDER

v.

SMITH & LOVELESS, INC., a  
Kansas corporation,

Defendant.

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CITY OF RAINIER, for the use and  
benefit of SMITH & LOVELESS, INC.,  
and SMITH & LOVELESS, INC., a  
Kansas corporation,

Counterclaimants,

v.

STELLAR J CORPORATION, a  
Texas corporation, and  
TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA,  
an insurance company,

Counterdefendants.

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**BROWN, Judge.**

Magistrate Judge John Jelderks issued Findings and Recommendation (#48) on May 11, 2010, in which he recommends the Court grant the Motion (#21) for Partial Summary Judgment of Stellar J Corporation and Travelers Casualty and Surety Company of America. Smith & Loveless, Inc., filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In its Objections, Smith & Loveless reiterates the arguments contained in its Response to the Motion for Partial Summary Judgment of Stellar J Corporation. The Magistrate Judge thoroughly addressed Smith and Loveless's arguments in his Findings and Recommendation. This Court also has carefully considered Smith and Loveless's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#48) and, accordingly, **GRANTS** the Motion (#21) for Partial Summary Judgment of Stellar J Corporation and

Travelers Casualty and Surety Company of America.

IT IS SO ORDERED.

DATED this 5<sup>th</sup> day of August, 2010.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge